APPEAL NO. 032655
FILED NOVEMBER 20, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was originally scheduled for May 6, 2003, but was rescheduled several times and ultimately held on September 9, 2003. The hearing officer determined that the appellant/cross-respondent's (claimant) _____, compensable injury extends to and includes tendonitis and De Quervain's syndrome to the right upper extremity; that the compensable injury does not extend to or include bilateral carpal tunnel syndrome, bilateral cubital tunnel syndrome, an injury to the left hand, or tendonitis and De Quervain's syndrome to the left upper extremity; and that the claimant had disability from December 5, 2002, to January 28, 2003, but not from January 29, 2003, through the date of the hearing. The claimant appeals the adverse extent-of-injury determinations and the determination that disability does not extend beyond January 28, 2003. Additionally, the claimant asserts that the rescheduling of the proceedings resulted in her inability to seek medical treatment and return to work. The respondent/cross-appellant (carrier) appeals the determination that the compensable injury includes tendonitis and De Quervain's syndrome to the right upper extremity and, because the period of disability was premised on these injuries, contends that the claimant did not have disability from December 5, 2002, to January 28, 2003. The carrier also asserts that the medical records of Dr. S should not have been admitted into evidence. Both parties responded to the opposition's request for review.

DECISION

Affirmed.

The claimant asserts on appeal that the repeated rescheduling of the hearing proceedings rendered her unable to obtain medical treatment and return to work. The evidence reflects that the claimant was given notice of the carrier's motions for continuance via the attorneys who were representing her at the time the requests were made; however, the claimant did not object to any of the continuances, which were granted by the hearing officer on the basis that good cause existed for the carrier's requests. Accordingly, the claimant waived the right to complain about this matter on appeal.

The carrier asserts that the hearing officer erred in admitting the records of Dr. S because they "lacked probative value." The carrier did not object to the admission of this exhibit at the hearing and, therefore, failed to preserve error below.

Extent of injury and disability were factual questions for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v.

Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Co. v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). Nothing in our review of the record indicates that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ROYAL INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.

_____
Chris Cowan
Appeals Judge

CONCUR:

_____
Gary L. Kilgore
Appeals Judge

_____
Robert W. Potts
Appeals Judge